



# *COMMONWEALTH of VIRGINIA*

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Blue Ridge Regional Office

[www.deq.virginia.gov](http://www.deq.virginia.gov)

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## **VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO RWG5 LLC FOR DISPOSAL & RECYCLING SERVICES OF LUNENBURG Solid Waste Permit No. SWP544**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and RWG5 LLC, regarding Disposal & Recycling Services of Lunenburg, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable permit and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" or "Landfill" means Disposal & Recycling Services of Lunenburg, located at 45 Landfill Road, State Route 659, in Lunenburg, Virginia, which is owned and operated by RWG5 LLC, a subsidiary of Container First Services.
6. "FAR" means the Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9 VAC 20-70-10 *et seq.*
7. "RWG5" means RWG5 LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. RWG5 is a "person" within the meaning of Va. Code § 10.1-1400.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
10. "Permit" means Solid Waste Permit (SWP) No. SWP544, which was issued under the Virginia Waste Management Act and the Regulations to Lunenburg County on November 20, 1992. RWG5 LLC purchased the Lunenburg County sanitary landfill permitted under Permit No. SWP544 and assumed the daily operations of the Facility on February 25, 2013.
11. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-81-10 *et seq.*
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. On November 20, 1992, Lunenburg County was granted a permit to operate a sanitary landfill by Virginia Department of Waste Management, predecessor-in-interest to the DEQ.
2. The Facility has been operated as a sanitary landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.
3. RWG5 purchased the Lunenburg County sanitary landfill permitted under the Permit and assumed the daily operations of the Facility on February 25, 2013.

4. On June 28, 2016, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. Based on the inspection and follow-up information, Department staff made the following observations.
5. Soil erosion was observed on the side slopes. The accumulated sediment from the slopes was observed built up at the base of the slopes, along the access road, and deposited in vegetation on the other side of the road. Erosion channels and exposed waste were observed on the side slopes above the access road. Additionally, the concrete apron at MW-4 was nearly buried in soil. The sediment was deposited around the well and beyond the well into the surrounding vegetation.
6. 9 VAC 20-81-140(A)(7) requires that owners or operators shall maintain the run-on/runoff control systems designed and constructed in accordance with 9VAC20-81-130(H). In accordance with 9 VAC20-81-130(H), facilities shall be designed to provide and maintain:
  3. Drainage structures shall be installed and continuously maintained to prevent ponding and erosion, and to minimize infiltration of water into solid waste cells.
7. The active working face was confined to an area below the trailer tipper but an area of uncovered waste was located at the top of the south slope (paralleling the wetlands area). This area extended the entire length of the top of the south slope of the active cell and at one point appeared to exceed 20 feet in depth. The waste was observed to be placed at an extremely steep slope, approaching vertical.
8. Additional areas of exposed waste, erosion channels and uneven areas were observed on the side slopes. These areas had received intermediate cover.
9. On June 29, 2016, the Department received photos from RWG5 staff documenting completed work to address the issues of exposed waste.
10. 9VAC20-81-140(B)(1) Compaction and cover requirements states:
  - c. Daily cover consisting of at least six inches of compacted soil or other approved material shall be placed upon and maintained on all exposed solid waste prior to the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging. Alternate materials of an alternate thickness may be approved by the department if it has been demonstrated that the alternate material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. At least three days of acceptable cover soil or approved material at the average usage rate shall be maintained at the landfill or readily available at all times.

d. Intermediate cover of at least six inches of additional compacted soil shall be applied and maintained whenever an additional lift of refuse is not to be applied within 30 days. Further, all areas with intermediate cover exposed shall be inspected as needed, but not less than weekly. Additional cover material shall be placed on all cracked, eroded, and uneven areas as required to maintain the integrity of the intermediate cover system.

11. The Permit's General Permit Condition I.B states that the permittee shall comply with all conditions of this permit and 9 VAC 20-81-10, et seq...
12. The Permit's General Permit Condition I(B)(5) states that the permittee shall at all times properly operate and maintain all units (and related appurtenances) which are installed or used by the permittee to achieve compliance with the operations manual and conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing, and training, and....
13. Two new leachate seeps were found along the toe of the waste cell.
  - The first was a relatively small seep that occurred along the eastern slope and found daylight within an erosion channel created by uncontrolled storm water flow.
  - The second seep appeared to be related to the seep along the western slope near the haul road which was documented in the July 23, 2015, October 21, 2015, and March 11, 2016 inspection reports. RWG5 had responded to those occurrences by installing drainage chimneys and applying additional soil cover. The new seep found daylight on the northern slope (paralleling Old Mansion Road) less than 50 feet from the previous outbreaks on the western slope. The new seep had flowed down the slope to the toe to the storm water containment berm. The point where the seep found daylight was wet, with a small amount of liquid flow coming off of it.
14. 9 VAC 20-81-210(F) requires that if a leachate seep occurs, the owner or operator shall repair the seep(s) and do the following:
  1. Take all immediate steps necessary to protect public health and safety including those required by the contingency plan.
  2. Take immediate action to minimize, control, or eliminate the seep, and to contain and properly manage the leachate at the source of the seep.
  3. Any leachate released outside the lined area permitted for waste disposal shall be properly collected and disposed.
15. On July 7, 2016, based on the inspection, the Department issued Notice of Violation No. NOV-16-06-BRRO-001 to RWG5 LLC d/b/a DRSL for the violations described in paragraphs C(5) through C(13), above.

16. On August 12, 2016, Department enforcement and compliance staff met with RWG5 staff to discuss the NOV and actions taken by DRSL staff to correct the violations identified in the NOV.
17. Based on the results of the June 28, 2016 inspection, the Board concludes that RWG5 has violated 9 VAC 20-81-140(A)(7), 9 VAC 20-81-140(B)(1), the Permit's General Permit Conditions I(B) & I(B)(5) and 9 VAC 20-81-210(F), as described in paragraphs C(5) through C(13), above.
18. In order for RWG5 to return to compliance, DEQ staff and representatives of RWG5 have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders RWG5, and RWG5 agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$33,450** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

RWG5 shall include its Federal Employer Identification Number (FEIN) 45-5489099 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, RWG5 shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of RWG5 for good cause shown by RWG5, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. NOV-16-06-BRRO-001 dated July 7, 2016. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, RWG5 admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. RWG5 consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. RWG5 declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by RWG5 to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. RWG5 shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. RWG5 shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. RWG5 shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

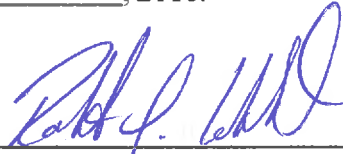
- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and RWG5. Nevertheless, RWG5 agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after RWG5 has completed all of the requirements of the Order;
  - b. RWG5 petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to RWG5.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve RWG5 from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

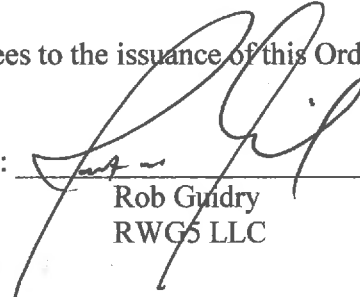
- 12. Any plans, reports, schedules or specifications attached hereto or submitted by RWG5 and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of RWG5 certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind RWG5 to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of RWG5.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, RWG5 LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 11<sup>th</sup> day of October, 2016.

  
Robert J. Weld, Regional Director  
Department of Environmental Quality


RWG5 LLC voluntarily agrees to the issuance of this Order.

Date: 8/31/16 By: , President  
Rob Guidry  
RWG5 LLC

Commonwealth of Virginia  
City/County of Richesburg

The foregoing document was signed and acknowledged before me this 31 day of August, 2016, by Rob Guidry who is President of RWG5 LLC, on behalf of the company.



  
Notary Public  
7389191  
Registration No.

My commission expires: 8-31-19

Notary seal:



## APPENDIX A SCHEDULE OF COMPLIANCE

RWG5 shall:

1. Limit the daily intake volume of waste at the Facility to 600 tons/day. The daily intake volume shall be calculated by using the weekly intake volume and dividing by 5.5 days. The weekly intake volume shall not exceed 3,300 tons/week. The limits on daily and weekly intake volumes shall become effective on August 22, 2016 and continue until termination of this Order.
2. Demonstrate three (3) consecutive months of compliance with the Virginia Waste Management Act, the Regulations, and the Permit beginning no later than August 22, 2016.
3. By **October 1, 2016**, submit to the Department, if it is determined by the Department to be required, an updated erosion and sedimentation plan to correct erosion problems on the haul roads, slopes, and sediment basin. The plan shall include a plan to amend the soil and take other appropriate steps to facilitate the growth of grass for soil stabilization. RWG5 shall respond to any notices of deficiency with respect to its erosion and sedimentation plan in accordance with the notice.
4. By **October 30, 2016**, RWG5 shall have addressed and resolved the leachate seep issues identified at the Facility and shall submit, if it is determined by the Department to be required, a long term leachate seep collection and management plan to the Department for approval. RWG5 shall respond to any notices of deficiency with respect to its leachate seep collection and management plan in accordance with the notice.
5. By **October 1, 2016**, RWG5 shall have completed an elevation survey of the Facility to determine the remaining capacity at the Facility. The report shall include side slopes and present operating elevations and defined boundary of the 1205 area.
6. By **October 1, 2016**, RWG5 shall submit an updated disclosure statement to reflect the existence of this Order and any other changes pursuant to Va. Code § 10.1-1408.1(C)(3). The disclosure statement shall be submitted on DEQ Form DISC-01 and 02 from 9 VAC 20-81-10, *et seq.* If the forms submitted by RWG5 are found by Department staff to be inaccurate or deficient, RWG5 shall respond and correct any inaccuracies or deficiencies regarding the forms within 10 days from receiving the notice of the inaccuracy or deficiency.
7. Unless otherwise specified in this Order, RWG5 shall submit all requirements of Appendix A of this Order to:

**Jerry Ford, Jr.**  
**VA DEQ - Blue Ridge Regional Office**  
**3019 Peters Creek Road**  
**Roanoke, VA 24019**  
**Phone: (540) 562-6817**  
**e-mail: [Jerry.Ford@deq.virginia.gov](mailto:Jerry.Ford@deq.virginia.gov)**

